



## CLOSED CASE SUMMARY

ISSUED DATE: JULY 14, 2020

CASE NUMBER: 2019OPA-0789

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)
# 2	8.300 - Use of Force Tools 5. Officers Shall Not Use Less-Lethal Tools to Prod or Jab Individuals, to Awaken Unconscious or Intoxicated Individuals, or to Prevent the Destruction of Evidence	Not Sustained (Unfounded)

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Inconclusive)
# 2	8.300 - Use of Force Tools 5. Officers Shall Not Use Less-Lethal Tools to Prod or Jab Individuals, to Awaken Unconscious or Intoxicated Individuals, or to Prevent the Destruction of Evidence	Not Sustained (Inconclusive)

#### **Named Employee #3**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Inconclusive)
# 2	8.300 - Use of Force Tools 5. Officers Shall Not Use Less-Lethal Tools to Prod or Jab Individuals, to Awaken Unconscious or Intoxicated Individuals, or to Prevent the Destruction of Evidence	Not Sustained (Inconclusive)

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

The Complainant alleged that an unknown officer treated her unprofessionally and improperly poked her with a baton or a flashlight.

### **SUMMARY OF INVESTIGATION:**

The Complainant stated that she was walking across the street after a Sounders game towards a rideshare that she had called to pick her up. She recalled crossing with other pedestrians and after being motioned across by officers but said that she did so towards the end of the light. The Complainant recounted that, when she was approximately



halfway across the street, an officer started yelling, “Have you ever crossed a crosswalk before?” She said that she tried to run across the street, but the officer grabbed her by her backpack and swung her around. The officer told her that she needed to go back to the other side. The Complainant replied that the officer should not grab her backpack. She said that the officer continued to argue with her and, at one point, poked her arm with a flashlight or baton. The Complainant described the officer as being unprofessional and acting inappropriately, causing her to become embarrassed and upset. The Complainant further provided a general physical description of the officer.

As a result of this complaint, OPA initiated an investigation against an unknown SPD employee.

OPA was able to identify two officers that were on duty during the incident that met parts of the description. However, neither officer was a complete match. OPA notes that the SPD supervisor who initially took the Complainant’s complaint also could not definitively identify the involved officer based on the description she provided.

The first officer, Named Employee #1 (NE#1), recalled flagging traffic after the Sounders game. He remembered a woman matching the Complainant’s description crossing against the light. He said that he called out to Named Employee #2 (NE#2), who was also flagging, to let him know about this as she was walking in NE#2’s direction. NE#1 stated that he was concerned that she could be struck by a vehicle. NE#1 did not interact with the woman and did not see where she went afterwards as he then turned around. NE#1 did not see or hear the woman engage with NE#2. NE#1 said that it would be uncommon to grab someone crossing the street or to poke them with a baton, flashlight, or any other object. Moreover, NE#1 denied that he would use a baton in the scenario described by the Complainant. He said that it was much more normal to use a loud voice or whistle to direct the person not to cross.

The second officer, NE#2, also recalled flagging on the date in question but he did not remember any interaction with a pedestrian. NE#2 denied grabbing a woman by the backpack or poking a woman with a baton or flashlight. He stated that it would be uncommon to grab someone crossing the street unless they could be hit by a car because of not paying attention or intoxication. NE#2 stated that, on the date in question, he was not carrying a flashlight or a baton.

The Complainant did not have video of this incident and OPA was not able to locate any other third-party video that may have recorded what occurred.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegations #1**

##### ***5.001 - Standards and Duties 10. Employees Shall Strive to be Professional***

As indicated above, NE#1 recalled interacting with a woman who may have been the Complainant and confirmed that he did not grab her backpack or push her with a baton/flashlight. NE#1 stated that he notified NE#2 that she was walking in his direction but did not see what happened after that.



Given this and based on a preponderance of the evidence standard, OPA finds an insufficient basis to determine that NE#1 engaged in unprofessional behavior or used force against the Complainant. OPA accordingly recommends that both this allegation and Allegation #2 be Not Sustained – Unfounded as against NE#1.

Recommended Finding: **Not Sustained (Unfounded)**

**Named Employee #1 - Allegation #2**

***8.300 - Use of Force Tools 5. Officers Shall Not Use Less-Lethal Tools to Prod or Jab Individuals, to Awaken Unconscious or Intoxicated Individuals, or to Prevent the Destruction of Evidence***

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

**Named Employee #2 - Allegations #1**

***5.001 - Standards and Duties 10. Employees Shall Strive to be Professional***

Unlike with NE#1, NE#2 did not have a clear recollection of this incident or of interacting with the Complainant. As such, he could not definitively foreclose that the incident as described by the Complainant occurred.

In OPA's review of the evidence, including looking at the initial reports by supervisors documenting the complaint, OPA found the Complainant to be credible. OPA notes that one supervisor documented that the Complainant was very emotional when relaying what happened to her. OPA finds this to be evidence supporting a finding that the incident did, in fact, occur and was upsetting for the Complainant.

This being said, there is no video of the incident, and, as such, OPA cannot conclusively establish which SPD employee engaged in the actions alleged. If OPA could do so, OPA would likely find that there was a violation of policy. However, for the reasons set forth herein, OPA recommends that this allegation and Allegation #2 be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

**Named Employee #2 - Allegation #2**

***8.300 - Use of Force Tools 5. Officers Shall Not Use Less-Lethal Tools to Prod or Jab Individuals, to Awaken Unconscious or Intoxicated Individuals, or to Prevent the Destruction of Evidence***

For the same reasons as stated above (see Named Employee #2 – Allegation #1), OPA recommends that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**



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**Named Employee #3 - Allegations #1**

***5.001 - Standards and Duties 10. Employees Shall Strive to be Professional***

As discussed in the context of NE#2, the evidence in the record is inconclusive as to whether he or another unidentified officer engaged in the acts alleged by the Complainant. Accordingly, OPA recommends that this allegation and Allegation #2 be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

**Named Employee #3 - Allegation #2**

***8.300 - Use of Force Tools 5. Officers Shall Not Use Less-Lethal Tools to Prod or Jab Individuals, to Awaken Unconscious or Intoxicated Individuals, or to Prevent the Destruction of Evidence***

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**